

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

CHARLES WIRTH,

Case No. 3:17-cv-00742-MMD-VPC

Petitioner,

## ORDER

RENEE BAKER, *et al.*,

## Respondents.

15 Petitioner, who is in the custody of the Nevada Department of Corrections, has  
16 filed an application to proceed *in forma pauperis* (ECF No. 1) and a petition for a writ of  
17 habeas corpus pursuant to 28 U.S.C. § 2241. The financial information attached to the  
18 application is six months out of date. Petitioner needs to file a new application with a  
19 statement of his inmate account for the most recent six months. LSR 1-2.

20 Petitioner also has used the incorrect form for his petition. Petitioner is challenging  
21 the method of accrual of credits toward parole eligibility. He is not challenging the validity  
22 of his judgment of conviction. Nonetheless, petitioner is in custody pursuant to a judgment  
23 of conviction of a state court, and thus 28 U.S.C. § 2254 is the applicable provision.  
24 Petitioner will need to file an amended petition on the Court's form for a § 2254 petition.

25 It is therefore ordered that the application to proceed *in forma pauperis* is denied.

26 It is further ordered that petitioner must file an application for leave to proceed *in  
27 forma pauperis*, accompanied by a signed financial certificate and a statement of his  
28 inmate account.

1           The Clerk of the Court will send petitioner a blank application form for incarcerated  
2 litigants. In the alternative, petitioner will make the necessary arrangements to pay the  
3 filing fee of five dollars (\$5.00), accompanied by a copy of this order. Petitioner will have  
4 thirty (30) days from the date that this order is entered to comply. Failure to comply will  
5 result in the dismissal of this action.

6           It is further ordered that the Clerk of the Court file the petition for a writ of habeas  
7 corpus.

8           It is further ordered that the Clerk send petitioner a petition for a writ  
9 of habeas corpus pursuant to 28 U.S.C. § 2254 form with instructions. Petitioner will have  
10 thirty (30) days from the date that this order is entered in which to file an amended petition  
11 on the correct form. Failure to comply with this order will result in the dismissal of this  
12 action.

13           It is further ordered that petitioner shall clearly title the amended petition as such  
14 by placing the word “AMENDED” immediately above “Petition for a Writ of Habeas Corpus  
15 Pursuant to 28 U.S.C. § 2254” on page 1 in the caption, and petitioner must place the  
16 case number, 3:17-cv-00742-MMD-VPC, above the word “AMENDED.”

17           It is further ordered that the Clerk add Adam Laxalt, Attorney General for the State  
18 of Nevada, as counsel for respondents.

19           It is further ordered that the Clerk electronically serve upon respondents a copy of  
20 the petition and this order. Respondents’ counsel must enter a notice of appearance  
21 herein within twenty (20) days of entry of this order, but no further response will be  
22 required from respondents until further order of the Court.

23           DATED THIS 4<sup>th</sup> day of January 2018.

24  
25  
26  
27  
28



MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE